Before the COPYRIGHT ROYALTY TRIBUNAL Washington, D.C.

-------x :

In the Matter of

1982 JUKEBOX ROYALTY Docket No. 83-2

DISTRIBUTION PROCEEDINGS

1983 JUKEBOX ROYALTY : DISTRIBUTION PROCEEDINGS Docket No. 84-2-83JD

DIGINIBUTION INCOMEDINGS

AFFIDAVIT

STATE OF NEW YORK)

COUNTY OF NEW YORK)

DWIGHT S. YOUNG, being duly sworn, states:

- 1. I am employed by the American Society of Composers, Authors and Publishers (ASCAP), and hold the position of Operations Manager in ASCAP's Radio Department.
- 2. My duties include supervision of certain radio licensing matters and departmental administration.
- 3. I am submitting this affidavit in response to the Tribunal's request for an affidavit from an ASCAP employee substantiating the representation made by counsel during the hearings in the above proceedings concerning ACEMLA's Attachment 11.

- 4. On a regular basis, Radio Station WADO, located in New York, New York, forwards clearance requests to ASCAP; these documents are addressed to my attention. These clearance requests are lists of musical compositions; WADO asks ASCAP to identify those works on the lists which are in the ASCAP repertory.
- 5. I have personal knowledge of the fact that these music clearance requests submitted by WADO are <u>not</u> lists of songs which WADO purports to have performed. Rather, they are lists which I understand WADO uses to determine what they are licensed to perform.
- 6. When I receive each clearance request from WADO, I immediately ask ASCAP's Index Department to identify those listed works which are in the ASCAP repertory. They do so by marking each list with appropriate notations next to each song. (For some songs, ASCAP must inquire of affiliated foreign performing right societies by cable whether the works are in their repertories and licensed in the United States through ASCAP.)
- 7. As soon as I receive the marked clearance forms from our Index Department (which is usually within a few days of their receipt), I telephone the appropriate individual at WADO and convey the requested information. I also mail a copy of the particular clearance request form, as marked by ASCAP's

Index Department, to WADO; the form will also have my signature and notations on it. I retain a marked form for ASCAP's records (usually I keep the original, rather than a copy).

8. Each clearance request I receive is marked by WADO with an identification number and a date before it is submitted to ASCAP. I have examined the five clearance requests made part of the record in these proceedings by ACEMLA, identified as 85-97, 85-98, 85-99, 85-100 and 85-101. I attach to this affidavit true and correct copies of the original, marked clearance requests with those identification numbers, which are part of ASCAP's records.

DWIGHT S. YOUNG

Sworn to before me this guiday of October, 1985

NOTARYMPUBLIC

1980

Request for Review of COMPOSITIONS ON RECORD

at: (x) ASCAP

()BMI

Number 85-97

Date 17 Jun 85

Title of Composition:		Writer(s):		cord ,	e e
		Willer(3).	Yes	No	
1	La Luna y Tú 🏃	Edmundo Disdier (ASCAR)			
2	Noche Y Día	Rafael Hernandez SGAD 10	and	- D 91 11	
3	Así	María Grever ASCAR Solom	Kon		V.
4	Silencio	Rafael Hernandez (SGAE) MO	rojo	<u> </u>	,
5	Ojos Malvados	Cristina Saldrigas SNAC)	wa	O	7
6	Tú No Comprendes	Rafael Hernandez SGAE)	y a	ray	r N
7	Máscara		aun	ro Ba	ŀ
8	Que Te Importa Saber	René Touzet (3504)	000	000	
9	Y Háblame	Paco Mitchel (SGCM) AU	pol		
10	Loca Pasión 🗼 🖟	Edmundo Disdier		80.42	
11	Alma Adentro	Sylvia Rexach (pacein) NU	1000	4	,
12	Yo Era Una Flor	Sylvia Rexach Southon	MID	CM	U
13	Ya No Te Acuerdas de Mí🍌	María Grever		2	21
14	Romance del Campesino 🚣	Roberto Cole (SCOP) Louther	No once		Ç
15	Ah Que Bonita Eres Tú 🎄	Rafael Hernandez South	way	MAN	
16	' Ansias	M That a second			V
17	Olas y Arenas	Sylvia Rexact Space Not 0 500	11/	0.40	N
18	Nave Sin Rumbo	Sylvia Rexach (Spacem) /	10 1 (A	200	
19	Dime Que Sí	Alfonso Esparsa Otero MM) A	112 A	145	
20	Contigo 7	Pedro Flores (Space With MAN		17 200	ľ
21	Perdón	Pedro Flores	****		
22	Despedida	Pedro Flores	000	1/2	
23	Querube	Pedro Flores /////	The state of the s		
24				-	
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30					1
31				 	1
32				1	1

Remarks: Phone / Gloria 6/26/85
Mail/Phone / Gloria 6/26/85

Reviewed by: 6/19/85 via phone

Signature

Date

Request for Review of Number 85-98 WADO RADIO COMPOSITIONS ON RECORD 277 Paterson Plank Road Date 6/24/85 ()BMI Carlstadt. NJ 07072 at: (x) ASCAP On Record Writer(s): Title of Composition: Yes No Honorio Herrero/Jose A. Quintano Buenos Dias, America URBYWILLS Francisco, Black Pacho Galan SayCO Te Vi Mario De Jesus NM Por Un Pelito Quiero Vivir en la Loma L Jaime Shanlatte (BMI) STINET WI if bywiter No Me InteresaBMZ, Rudy max Rudy Perez Rammire & Harold Grozco? MR Desde Colombia con Amor Roberto Carlos/Erasmo Carlos/50 Aleluya Oscar Gomez (5909) 5 bat 8 Roberto Carlos/Erasmo Carlos/ 9 Luna Nueva houten. Oscar Gomez 10 5acem Massias Poquito A Poco 11 Jose Alfredd Jimenez Si Nos Dejan 12 Homero Aguilar-RSGCY 13 Amaneci Contigo ISOCVEN' Momero Parra Milagro de Amor 14 by with PCVF. Dablo Milanes Yolanda 15 Luis Monzalez Jairo Por Si Tu Quieres Saber NR MDavid Morales Inmenso Mar MICERIC 17 D.R. Morena de 15 Anos 18 D.R. Que Seas Feliz 19 Titi Amadeo (NM) Tropla Adorada Ilusion 20 Pedro Flores 21 Linda Claudio Estrada Contigo 22 Pepe Guizar Sin Ti 23 Chucho Navarro Perdida 24 Rafael Hernandez No Me Quieras Tanto 25 Chucho Navarr (SCM) Smith 26 Ravito De Luna Musica Editorial Alfredo Gil Ya Me Voy 27 Güicho Cisneros Gema 28 Güicho Cisneros Tres Regalos 29 Guicho Cisneros 30 Como Un Duende Mexikan Music MIDG Güicho Cisneros Por Fin 31 $\mathcal{N}\mathcal{M}$ D.R. 32 Asi Es La Vida T. Yrutia (WM) Para Que Lo Oigas Reviewed by: phone/Mail 7/1/85 Remarks: * 18 advanced via place 7/19/85

Walley Broken Broken Walley

Request for Review of COMPOSITIONS ON RECORD at: (x)ASCAP ()BMI

Number 85-99

Date 6/25/85

Title of Composition:		Writer(s):	On Re	ecord
		WITCEL(S):	Yes	No
1	Te Importe Saber	Rene Pouzet		
2	Nuestro Juramento	Benito De Jesus		MISE AD
3	La Gloria Eres Tu	Jose Antonio Mendez		May
4	Usted	Gabriel Ruiz		Trop
5	Condicion	Gabriel Ruiz		NOTON
6	Consentida	Alfredo Nunez de Borbon		Thicas
7	Mienteme	Armando Dominguez		`\
8	Caminemos	Alfredo Gil/H. Martinez	bla	40P
9	Herida De Amor	Claudio Estrada	not	. 2/1
10	Delirio	Cesar Portillo de la Luz	Nota	icap
11	La Enramada	Graciela Olmos (GOCM) Sans	op of	Hetry
12	Estoy Perdido	Victor Manuel Mato	not	2p
13	Contigo en la Distancia	Cesar Portillo de la Luz	Bo	cap
14	Te Odio y Te Quiero	Reynaldo Hernandez (NM)	IK	1
15				· .
16				

Remarks: Phone & F. Soldano	7/2/85	۔۔
br E. chielon		,

Reviewed by:	1941
1.	
Signature	Date

Request for Review of COMPOSITIONS ON RECORD

at: (x) ASCAP () BMI

85-100 Number

> 7/7/85 Date

,			On Record		
Title of Composition:		Writer(s):	Yes	No	
.1	Perdőn	Pedro Flores NOT QSCAP	, 19 g s		
2	Contigo Aprendí	Armando Manzanero (10) ASCAP)			
3	Volví La Espalda	Ruben Fuentes M		1	
4	Vete De Mi	Virgilio y Homero Expósito SOUTHIN MA	With the	pu	
5	Aunque Te Arranques La Pie		dy	unds	
6	En Un Rincon Del Alma	Alberto Cortez BOMLON	M	sigo	
7	Flores Negras	Sergio De Karlo M NSC	风	1	
8	Amémonos	Manuel M. Flores/C. Mothrun Oc	ampo	\$CD	
9	Cuando Vuelvas	Agustín Lara	Mot	ASCA	
10	Dos Almas	Don Fabian MCD IN	1 1		
11	Amor Perdido	René Cotera	1		
12	Y Donde Está El Amor	A. Vezzanit. Ehrlich		:	
13	Llegada	P. Cardozo Porfirio			
14	Déjala Que Vuelva	Gabriel Romero M		W-FA	
15	Contigo	C. Estrada	· MQI	THE PARTY	
16			Any	CI WILL	
17		J. Navarrasach smith Ethe	MALO	NICE U	
18	Sin Un Amor	A. GIL SACH SMAN ETAN		4	
	Remarks:	Reviewed by:	M	}	

Request for Review of COMPOSITIONS ON RECORD

Number. 85-101

at: (x) ASCAP

()BMI

Date 7/15/85

		Writer(s):	On Re	cord
, ;	Title of Composition:	witter(s):	Yes	No
1	La Guagua	Senen Palacio No Info on thio Person		MQ
2	Amor de Verano	A. Musso/B. Osborne Need first names		J. R.
3	Las Chiquiticas	Jose Velasquez	, 4	R
4	Tendras Que Mandarlo A Hacer	D.R. De A. Need first what no		NR
5	Corazon Contento	Palito Ortega Trina Jill Music	COUP	100
6	Nana De Colorines	SGAE SGAE Lolita/P, Herrero/J.L. Armenter	os sque	TR.
7	El Amor Es Asi	P. Herrero/J.L. Armenteros	1	R
8	El Cuartito	Mundito Medina	not	Mác
9	El Bardo	Bobby Capo	Not	ASCA!
10	Cita A Las Seis	Adolfo Salas Editorial Mexicana		
11	Yo No He Visto A Linda	Pedro Flores Spacomy		M
12	Si Te Contara	Felix Reyna (NS)	NOT	10 Ch
13	Ay Amor	Ed-Wilson/Carlinhos Da Costa	:	M
14	Dejala Que Vuelva	Gabriel Romero (NM)		W
15	Lamento Marino	Gabriel Romerd (MM)	,	MR
16	Por Una Noche Contigo	Anibal Pastor SQCM)		IR

Remarks:			
The state of the s	•	•	

Reviewed by:

1. In tendering the shipment for carriage the shipper agrees to these TERMS AND CONDITIONS OF CONTRACT which no agent or employee of the parties may alter and that this Federal Express Airbill is NON-NEGOTIABLE and has been prepared by him or on his behalf by Federal Express.

2. The shipper agrees that carriage is subject to terms and conditions of contract stated herein and those terms and conditions which are also stated in the most recent Federal Express Service Guide, which is available for inspection and incor-

porated into this contract by reference.

3. In tendering the shipment for carriage, THE SHIPPER WARRANTS that the shipment is packaged adequately to protect the enclosed goods and to insure safe transportation with ordinary care and handling, and that each package is appropriately labeled and is in good order (except as noted) for carriage as specified.

4. When the destination of the shipment is not within the Federal Express air terminal zone as listed in the most recent Federal Express Service Guide, Federal Express makes no commitment with respect to time of delivery of the shipments

5. In the event of international carriage of any shipment hereunder, the rules relating to liability established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw, Poland on October 12, 1929 shall apply to the carriage insofar as the same is governed thereby.

6. Federal Transportation Excise Tax. Pursuant to Section 4271 of the Internal Revenue Code, a 5% tax on air transportation portion of the service and the ac-

cessorial services related thereto is included within the basic rate.

7. DECLARED VALUE AND LIMITATION OF LIABILITY THE LIABILITY OF FEDERAL EXPRESS IS LIMITED TO THE SUM OF \$100.00 unless a higher value is declared for carriage herein and a greater charge paid at the rate of 30c per \$100.00 value. The maximum higher declared value is \$5000.00. Shipments containing items of extraordinary value, including, but not limited to drawings, paintings, sculptures. porcelain, ceramics, furs, fur clothing, fur trimmed clothing, jewelry, watches, gems, stones (precious or semi-precious, cut or uncut), industrial diamonds. costume jewelry, precious metals, gold, silver, (bullion, dust or precipitates). platinum (except as an integral part of electronic machinery), money, currency, coins, trading stamps, stocks, bonds, cash letters (or their equivalent) or other extraordinary valuable items, are limited to a maximum declared value of \$500.00. When multiple packages are placed on a single airbill but the shipper has not specified the declared value of each individual package, the declared value for each individual package will be determined by dividing the total declared value on the airbill by the number of packages indicated on the airbill, subject to a \$100.00 minimum declared value per individual package. The liability of Federal Express is limited to the declared value of the shipment or the amount of loss or damage actually sustained, whichever is lower.

Federal Express is not liable for loss, damage, delay, mis-delivery or non-delivery not caused by its own negligence or any loss; damage, delay, mis-delivery or nondelivery caused by the act, default or omission of the shipper, consignee, or any other party who claims interest in the shipment, the nature of the shipment or any defect, characteristic of inherent vice thereof; violation by the shipper or consignee of any of the conditions of contract contained in this airbill or in the Federal Express Service Guide, including, but not limited to, improper or insufficient packing, securing, marking or addressing, or failure to observe any of the rules relating to shipments not acceptable for transportation or shipments acceptable only under certain conditions; acts of God, perils of the air, public enemies, public authorities acting with actual or apparent authority, authority of law, acts or omissions of customs or quarantine officials, riots, strikes or other local disputes, civil commotions, hazards incident to a state of war, weather conditions or mechanical delay of the aircraft or acts or omissions of any person other than FEC, including compliance with delivery instructions from the shipper or consignee. FEC shall not be liable for the loss of articles loaded and sealed in packages by the shipper provided the seal is unbroken at the time of delivery and the package retains its basic integrity. FEDERAL EXPRESS SHALL NOT BE LIABLE IN ANY EVENT FOR ANY SPECIAL. INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR INCOME WHETHER OR NOT FEDERAL EXPRESS HAD KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED.

8. CLAIMS. WRITTEN NOTICE OF LOSS DUE TO DAMAGE, SHORTAGE OR DELAY MUST BE REPORTED BY THE SHIPPER WITHIN 15 DAYS AFTER THE DELIVERY OF THE SHIPMENT, WRITTEN NOTICE OF LOSS DUE TO NON-DELIVERY MUST BE REPORTED BY THE SHIPPER WITHIN 180 DAYS AFTER AC-CEPTANCE OF THE SHIPMENT OR CARRIAGE. Written notification will be considered to have been made if the shipper calls and notifies the Customer Services Department at 800/238-5355 (in Tennessee 800/542-5171) and as soon as practicable thereafter files a written notification. Documentation of all claims other than overcharge claims must be submitted in writing to FEC within ninety (90) days after receipt of written notification. No claim for damage will be entertained until all transportation charges have been paid. The amount of a claim may not be deducted from the transportation charges. Receipt of the shipment by the consignee without written notification of damage on the delivery receipt shall be prima facie evidence that the shipment was delivered in good condition, except that in the case of claims for concealed damage which is not discovered at the time of delivery, the shipper shall notify FEC in writing as promptly as possible after the discovery thereof and in any event not later than 15 days from the date of delivery. The shipper must make the original shipping cartons and packing available for inspection by FEC. Claims for overcharges and refunds must be made in writing to FEC within twelve (12) months of the billing date. All claims must be filed by the shipper.

9. All shipments are subject to inspection by FEC, including but not limited to, opening the shipment. However, FEC is not obligated to perform such inspection. 10. C.O.D. services are not available and a C.O.D. shipment sent in error will be

delivered as a normal pre-paid or collect shipment.

11. Federal Express carries no cargo liability insurance but maintains a separate fund for the satisfaction of cargo claims which may arise out of the carriage of cargo pursuant to the conditions of contract contained herein and in the most recent Federal Express Service Guide.

12. Notwithstanding the shipper's instructions to the contrary, the shipper shall be primarily liable for all costs and expenses related to the shipment of the package, and for costs incurred in either returning the shipment to the shipper or warehousing the shipment pending disposition.

13. Saturday Delivery: Recipient's phone number is required.

RECIPIENT COPY (AFFIXED TO PACKAGE, GIVEN TO RECIPIENT AT DELIVERY)

PLEASE COMPLETE ALL INFORMATION IN THE 5 BLOCKS OUTLINED IN ORANGE SEE BACK OF FORM SET FOR COMPLETE PREPARATION INSTRUCTIONS.

629791584

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ORIGINAL

American Society of Composers, Authors and Publishers ASCAP Building — One Lincoln Plaza, New York, N.Y. 10023 Area Code (212) 595-3050

Office of General Counsel

I. Fred Koenigsberg

Senior Attorney

212 870-7513

October 9, 1985

Honorable Eddie Ray Chairman Copyright Royalty Tribunal 1111 20th Street, N.W. Washington, D.C. 20036

Re: 1982 and 1983 Jukebox Royalty Distribution Proceedings

(Docket Nos. 83-2 and 84-2-83JD)

Dear Chairman Ray:

In accordance with the Tribunal's request during the recently concluded hearings in the above matters, enclosed is the affidavit of Dwight S. Young concerning the WADO clearance requests which comprised LAM's Attachment 11 (see Tr. 339-343).

I. Fred Koenigsberg

IFK:a Encls.

cc: All counsel